

REMARKS

This Response is submitted in reply to the non-final Office Action mailed on July 2, 2008. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-625 on the account statement.

Claims 1-11 are pending in the application. In the Office Action, Claims 1-10 are rejected under 35 U.S.C. § 112 and Claims 1-11 are rejected under 35 U.S.C. § 103(a). In response, Applicants have amended Claims 1 and 11 and added new Claim 12. The amendments do not add new matter and are supported in Applicants' specification (Preliminary Amendment of June 15, 2005) at page 5, lines 3-4 and 6-10; page 6, lines 8-12, and page 7, lines 20-22. New Claim 12 is also supported in the specification, specifically at page 5, lines 4-5. In view of the amendments and for at least the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Office Action states that "the steam outlet" lacks sufficient antecedent basis. In response, Applicants have amended Claim 1 to recite "a steam outlet." Accordingly, Applicants submit that Claims 1-10 meets the requirements under 35 U.S.C. § 112 and request that the rejection be withdrawn.

In the Office Action, Claims 1-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,499,389 to Probst ("Probst"). Independent Claims 1 and 11 recite, in part, a nozzle for a steam outlet of a coffee machine that is disposable and configured in one piece formed from an assembly of two injection-molded welded plastic shells that are compatible with food use. Applicants submit that *Probst* fails to disclose or suggest every element of the present claims.

Probst fails to disclose or suggest a nozzle that is disposable and configured in one piece formed from an assembly of two injection-molded welded plastic shells as required, in part, by Claims 1-11. Instead, *Probst* teaches forming the elements of the emulsifying chamber from a half-hard synthetic material, notably chloroprene caoutchouc, which is a synthetic rubber. See, *Probst*, column 3, lines 50-55.

Further, in contrast to the present claims, *Probst* teaches that its nozzle must be formed of several segments that are assembled and held together by means of a sleeve. Specifically, *Probst* states, "Particularly for better cleaning, but also for the uncomplicated production of the emulsifying chamber and the adjacent regions, the emulsifying chamber has individual elements, which are cylindrical on the outside and are formed out with at least one of the stepped cross sections on the inside, and are held together by a common sleeve. All of the elements are disposed concentrically in the sleeve, which has a smooth outside surface." See, *Probst*, column 3, lines 43-50.

For example, the first embodiment in *Probst* teaches an element 2 housing a first segment 11, and an additional element 18 housing the second segment 13, that are detachably held together by a sleeve 19. See, *Probst*, column 4, lines 57-67. The second embodiment of *Probst* teaches the second segment 24 of the emulsifying chamber 23 is not only formed by the additional element 26, but by a further additional element 31, which includes the settling segment 16 and the blind ring 17. These elements 2, 26 and 31 are held together in a concentric arrangement by the sleeve 19. See, *Probst*, column 5, lines 55-61. Finally, the third embodiment teaches a second segment 33 and a third segment 34 adjoining a first segment 11 of the emulsifying chamber 32. Though this embodiment teaches the second segment 33 and the third segment 34 as formed out of a one-piece, additional element 35, this additional element is still independent of the first segment 11 of the emulsifying chamber 32. Therefore, even the third embodiment of *Probst* fails to teach a nozzle that is disposable and configured in one piece formed from an assembly of two injection-molded welded plastic shells as required by the present claims.

Applicants have found that making the nozzle as a single piece reduces manufacturing costs while also preventing the nozzle from having regions that could potentially form hiding places where milk might be deposited. This makes it possible to use the nozzle for a day without any risk of bacterial contamination. See, specification, page 5, lines 6-10. Moreover, because the nozzle is inexpensive to produce, one can dispose the nozzle after use a few times throughout a day. See, specification, page 7, lines 20-22. The ability to dispose of the nozzle daily removes any need for cleaning the nozzle during its short life span and greatly decreases any bacteria that could develop during the short use time.

Accordingly, because *Probst* is deficient with respect to the present claims, Applicants respectfully request that the obviousness rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY 

Robert M. Barrett
Reg. No. 30,142
Customer No. 29157

Dated: September 15, 2008